



House of Representatives

General Assembly

File No. 375

February Session, 2022

House Bill No. 5484

House of Representatives, April 7, 2022

The Committee on Public Health reported through REP. STEINBERG of the 136th Dist., Chairperson of the Committee on the part of the House, that the bill ought to pass.

***AN ACT CONCERNING THE DEPARTMENT OF PUBLIC HEALTH'S
RECOMMENDATIONS REGARDING PRIVATE AND SEMIPUBLIC
WELL TESTING.***

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Section 19a-37 of the 2022 supplement to the general
2 statutes is repealed and the following is substituted in lieu thereof
3 (*Effective October 1, 2022*):

4 (a) As used in this section:

5 (1) "Laboratory or firm" means an environmental laboratory
6 registered by the Department of Public Health pursuant to section 19a-
7 29a;

8 (2) "Private well" means a water supply well that meets all of the
9 following criteria: (A) Is not a public well; (B) supplies a residential
10 population of less than twenty-five persons per day; and (C) is owned
11 or controlled through an easement or by the same entity that owns or
12 controls the building or parcel that is served by the water supply well;

13 (3) "Public well" means a water supply well that supplies a public
14 water system;

15 (4) "Semipublic well" means a water supply well that (A) does not
16 meet the definition of a private well or public well, and (B) provides
17 water for drinking and other domestic purposes; and

18 (5) "Water supply well" means an artificial excavation constructed by
19 any method for the purpose of obtaining or providing water for
20 drinking or other domestic, industrial, commercial, agricultural,
21 recreational or irrigation use, or other outdoor water use.

22 (b) The Commissioner of Public Health may adopt regulations, [in the
23 regulations of Connecticut state agencies] in accordance with chapter 54,
24 for the preservation of the public health pertaining to (1) protection and
25 location of new water supply wells or springs for residential or
26 nonresidential construction or for public or semipublic use, and (2)
27 inspection for compliance with the provisions of municipal regulations
28 adopted pursuant to section 22a-354p.

29 (c) (1) On and after October 1, 2022, prior to the sale, exchange,
30 purchase or transfer of real property served by a private or semipublic
31 well, the owner of such property shall test the water quality of such well.
32 Such test shall be completed and the results of such test obtained by the
33 owner not earlier than forty-five days before such sale, exchange,
34 purchase or transfer. Such test shall include, but need not be limited to,
35 testing for total coliform, nitrate, nitrite, sodium, chloride, iron,
36 manganese, hardness, turbidity, pH, sulfate, apparent color, odor, lead,
37 arsenic and uranium. The prospective buyer of such property shall pay
38 the cost of such test.

39 (2) Any laboratory or firm which conducts a water quality test on a
40 private well or semipublic well shall determine if such test is being
41 conducted in connection with the sale, exchange, purchase or transfer of
42 real property, pursuant to subdivision (1) of this subsection.

43 (3) Any laboratory or firm which conducts a water quality test on a

44 private well or semipublic well in connection with the sale, exchange,
45 purchase or transfer of the real property shall, not later than thirty days
46 after the completion of such test, report the results of such test to (A) the
47 local health authority of the municipality where the property is located,
48 and (B) the Department of Public Health in a format specified by the
49 department.

50 (4) The Commissioner of Public Health shall adopt regulations, in
51 accordance with chapter 54, for the testing of water quality in private
52 wells and semipublic wells. [Any laboratory or firm which conducts a
53 water quality test on a private well serving a residential property or
54 semipublic well shall, not later than thirty days after the completion of
55 such test, report the results of such test to (1) the public health authority
56 of the municipality where the property is located, and (2) the
57 Department of Public Health in a format specified by the department,
58 provided such report shall only be required if the party for whom the
59 laboratory or firm conducted such test informs the laboratory or firm
60 identified on the chain of custody documentation submitted with the
61 test samples that the test was conducted in connection with the sale of
62 such property. No regulation may require such a test to be conducted as
63 a consequence or a condition of the sale, exchange, transfer, purchase or
64 rental of the real property on which the private well or semipublic well
65 is located.]

66 (d) Prior to the [sale, exchange, purchase, transfer or] rental of real
67 property on which a private or semipublic well is located, the owner
68 shall provide the [buyer or] tenant notice that educational material
69 concerning private well testing is available on the Department of Public
70 Health web site. Failure to provide such notice shall not invalidate any
71 [sale, exchange, purchase, transfer or] rental of real property. If the
72 [seller or] landlord provides such notice in writing, the [seller or]
73 landlord and any real estate licensee shall be deemed to have fully
74 satisfied any duty to notify the [buyer or] tenant that the subject real
75 property is located in an area for which there are reasonable grounds for
76 testing under subsection (g) or (j) of this section.

77 (e) The Commissioner of Public Health shall adopt regulations, in
78 accordance with chapter 54, to clarify the criteria under which the
79 commissioner may issue a well permit exception and to describe the
80 terms and conditions that shall be imposed when a well is allowed at a
81 premises (1) that is connected to a public water supply system, or (2)
82 whose boundary is located within two hundred feet of an approved
83 community water supply system, measured along a street, alley or
84 easement. Such regulations shall (A) provide for notification of the
85 permit to the public water supplier, (B) address the quality of the water
86 supplied from the well, the means and extent to which the well shall not
87 be interconnected with the public water supply, the need for a physical
88 separation, and the installation of a reduced pressure device for
89 backflow prevention, the inspection and testing requirements of any
90 such reduced pressure device, and (C) identify the extent and frequency
91 of water quality testing required for the well supply.

92 (f) No regulation may require that a certificate of occupancy for a
93 dwelling unit on such residential property be withheld or revoked on
94 the basis of a water quality test performed on a private well pursuant to
95 this section, unless such test results indicate that any maximum
96 contaminant level applicable to public water supply systems for any
97 contaminant listed in the regulations of Connecticut state agencies has
98 been exceeded. No administrative agency, health district or municipal
99 health officer may withhold or cause to be withheld such a certificate of
100 occupancy except as provided in this section.

101 (g) The local director of health may require a private well or
102 semipublic well to be tested for [arsenic,] radium, [uranium,] radon or
103 gross alpha emitters, when there are reasonable grounds to suspect that
104 such contaminants are present in the groundwater. For purposes of this
105 subsection, "reasonable grounds" means (1) the existence of a geological
106 area known to have naturally occurring [arsenic,] radium, [uranium,]
107 radon or gross alpha emitter deposits in the bedrock; or (2) the well is
108 located in an area in which it is known that arsenic, radium, uranium,
109 radon or gross alpha emitters are present in the groundwater.

110 (h) Except as provided in subsection (i) of this section, the collection
111 of samples for determining the water quality of private wells and
112 semipublic wells may be made only by (1) employees of a laboratory or
113 firm certified or approved by the Department of Public Health to test
114 drinking water, if such employees have been trained in sample
115 collection techniques, (2) certified water operators, (3) local health
116 departments and state employees trained in sample collection
117 techniques, or (4) individuals with training and experience that the
118 Department of Public Health deems sufficient.

119 (i) Any owner of a residential construction, including, but not limited
120 to, a homeowner, on which a private well is located or any general
121 contractor of a new residential construction on which a private well is
122 located may collect samples of well water for submission to a laboratory
123 or firm for the purposes of testing water quality pursuant to this section,
124 provided (1) such laboratory or firm has provided instructions to said
125 owner or general contractor on how to collect such samples, and (2) such
126 owner or general contractor is identified to the subsequent owner on a
127 form to be prescribed by the Department of Public Health. No
128 regulation may prohibit or impede such collection or analysis.

129 (j) The local director of health may require private wells and
130 semipublic wells to be tested for pesticides, herbicides or organic
131 chemicals when there are reasonable grounds to suspect that any such
132 contaminants might be present in the groundwater. For purposes of this
133 subsection, "reasonable grounds" means (1) the presence of nitrate-
134 nitrogen in the groundwater at a concentration greater than ten
135 milligrams per liter, or (2) that the private well or semipublic well is
136 located on land, or in proximity to land, associated with the past or
137 present production, storage, use or disposal of organic chemicals as
138 identified in any public record.

139 (k) Any water transported in bulk by any means to a premises
140 currently supplied by a private well or semipublic well where the water
141 is to be used for purposes of drinking or domestic use shall be provided
142 by a bulk water hauler licensed pursuant to section 20-278h. No bulk

143 water hauler shall deliver water without first notifying the owner of the
144 premises of such delivery. Bulk water hauling to a premises currently
145 supplied by a private well or semipublic well shall be permitted only as
146 a temporary measure to alleviate a water supply shortage.

147 (l) On and after October 1, 2022, the owner of each newly constructed
148 private well or semipublic well shall test the water quality of such well.
149 Such test shall include, but need not be limited to, testing for total
150 coliform, nitrate, nitrite, sodium, chloride, iron, manganese, hardness,
151 turbidity, pH, sulfate, apparent color, odor, lead, arsenic and uranium.
152 The results of such test shall be reported in accordance with the
153 provisions of section 19-13-B101 of the regulations of Connecticut state
154 agencies.

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| This act shall take effect as follows and shall amend the following sections: | | |
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| Section 1 | October 1, 2022 | 19a-37 |
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PH *Joint Favorable*

The following Fiscal Impact Statement and Bill Analysis are prepared for the benefit of the members of the General Assembly, solely for purposes of information, summarization and explanation and do not represent the intent of the General Assembly or either chamber thereof for any purpose. In general, fiscal impacts are based upon a variety of informational sources, including the analyst's professional knowledge. Whenever applicable, agency data is consulted as part of the analysis, however final products do not necessarily reflect an assessment from any specific department.

OFA Fiscal Note

State Impact:

| Agency Affected | Fund-Effect | FY 23 \$ | FY 24 \$ |
|--|-------------|----------|----------|
| Public Health, Dept. | GF - Cost | 70,000 | 70,000 |
| State Comptroller - Fringe Benefits ¹ | GF - Cost | 28,500 | 28,500 |

Note: GF=General Fund

Municipal Impact: None

Explanation

Starting October 1, 2022, this bill requires property owners to test the water quality of their private or semipublic wells: 1) when the well is newly constructed (as under current regulation); and 2) before selling, purchasing, exchanging, or transferring the property.

It is estimated that there are over 300,000 private residential wells in Connecticut. Under this bill, it is anticipated that the Department of Public Health (DPH) will annually receive laboratory testing results of at least 10,000 private wells. To handle the processing and analyzing of these water quality test results, DPH will need to hire one Epidemiologist, at a salary of \$70,000 to develop and maintain an electronic database.

The Out Years

The annualized ongoing fiscal impact identified above would continue into the future subject to inflation.

¹The fringe benefit costs for most state employees are budgeted centrally in accounts administered by the Comptroller. The estimated active employee fringe benefit cost associated with most personnel changes is 40.53% of payroll in FY 23.

OLR Bill Analysis**HB 5484*****AN ACT CONCERNING THE DEPARTMENT OF PUBLIC HEALTH'S RECOMMENDATIONS REGARDING PRIVATE AND SEMIPUBLIC WELL TESTING.*****SUMMARY**

Starting October 1, 2022, this bill requires property owners to test the water quality of their private or semipublic wells:

1. when the well is newly constructed, as under current regulation (see BACKGROUND) and
2. before selling, purchasing, exchanging, or transferring the property.

At a minimum, the testing must screen for the following contaminants: total coliform, nitrate, nitrite, sodium, chloride, iron, manganese, hardness, turbidity, pH, sulfate, apparent color, odor, lead, arsenic, and uranium. Within 30 days after completing the test, the environmental laboratory that does the testing must report the results to the local health department of the municipality where the property is located.

The bill requires (1) property owners to complete testing related to a real estate transaction within 45 days before the transaction occurs and (2) the prospective buyer to pay for the test. (Presumably, the property owner would be required to pay for testing related to transactions other than sales.) For this testing, in addition to reporting to the local health department, the laboratory must also report the results to the Department of Public Health (DPH) in a format the department specifies. The bill makes the laboratory responsible for knowing if the test is related to a property transaction.

Additionally, current law allows a local or district health director to

require that an existing private or semipublic well be tested for certain contaminants if he or she reasonably suspects groundwater contamination. The bill removes arsenic and uranium from the list of contaminants that must be tested for, but continues required testing for radium, radon, gross alpha emitters, pesticides, herbicides, or organic chemicals. (The bill already requires property owners to test these wells for arsenic and uranium when they are newly constructed or part of a real estate transaction.)

Lastly, the bill makes technical and conforming changes.

EFFECTIVE DATE: October 1, 2022

BACKGROUND

Current Testing Requirements

Local health districts and departments oversee private and semipublic residential wells, and well owners are responsible for maintaining the well and testing the quality of their own drinking water. State regulation requires water quality tests for newly constructed private residential wells, but neither state law nor regulation requires testing after the wells are first built.

Therefore, existing private wells are not tested unless the (1) homeowner arranges for the test or (2) local health department or the Department of Energy and Environmental Protection tests as part of an investigation (Conn. Agencies Regs. §§ 19-13-B101 and 19-13-B102).

Additionally, neither state law nor regulation currently requires an existing well to be tested as a condition of selling a home (Conn. Agencies Regs. § 19-13-B101). Instead, current law requires a homeowner to notify the purchaser that information about well testing is available on the DPH website.

COMMITTEE ACTION

Public Health Committee

Joint Favorable

Yea 20 Nay 10 (03/23/2022)